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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-08997(E)
1808997

Please recycle

The Human Rights situation of Indian administered Jammu & Kashmir requires council's attention

The ever worse human rights situation in Indian administered Kashmir deteriorated since September 2016.Human Rights violations including killings, enforced disappearances, torture, use of pellet shot guns, curbs on freedom of movement and assembly, assault on media, perpetrated by occupation forces against dissenting voices, and political opponents demanding right to self-determination as per United Nations Resolutions have become widespread. Perpetrators enjoy almost complete impunity under draconian Armed Forces Special Powers Act despite repeated demands to bring responsible to justice. Human rights defenders face persecution and experience challenges in carrying out their work while the rights to freedom of expression, association and peaceful assembly are being curtailed by draconian laws. The judiciary has failed to deliver justice to the victims and court orders are flagrantly violated and dishonored by the executive. Lack of transparency as well as corruption in criminal justice system has resulted in a serious erosion of the rule of law in Jammu & Kashmir, allowing the proliferation of human rights violations with impunity.

The following issues are of particular concern:

Killings:

Since September 2018, the bar of Killings has risen in Occupied Kashmir as compared to last few years due to the " Operation all Out" an offensive launched by Occupation Forces to flush out freedom fighters. Data collected presents a grim state of affair when comes to the killings till April 2018. As many as 558 persons were killed, which include men, women and children. Regardless of the continuous demands from civil society for the repeal of Armed Forces Special Powers Act (AFSPA), which gives impunity for the killings, the forces continue to enjoy unbridled powers and have turned Jammu and Kashmir in to a hunting ground for promotions and rewards.

Enforced disappearances

There continues to be no trace of the fate of more than 8000 disappeared persons in Jammu and Kashmir and their families suffer incessantly. Ironically, Director General of Police (DGP) SP Vaid, on December 10 at a seminar organized by the State Human Rights Commission (SHRC) in Srinagar, claimed that since 2015 there have been no cases of enforced disappearance. The DGP's claim is far from the truth and appears to be made with an aim to obfuscate the ground reality. In 2017, there has been a significant increase in the abduction of civilians, many of whom after forced disappearances were killed extra-judicially. Seven reported cases of abduction, enforced or involuntary disappearances establish the continuance of disappearances in Kashmir and to belie the Police Chief's statement.

Arrest and detentions

Nocturnal raids, arrests, illegal confinement and frequent crackdown on voices of dissent continue to be a state tool. Since July 2016, Indian Occupied Kashmir witnessed one of the worst crackdowns in which more 19230 Kashmiris were arrested, detained and jailed. Youth were arrested in large number to contain the unrest and suppress the dissent. The arrested persons included good number of students and human rights defenders as well and even minors were apprehended in disregard to the rules and law.

In modern times when people across the globe enjoy human rights, Kashmir narrates a different story. In this part of world, number of political activists and others are being kept in police stations unlawfully under wider umbrella of "preventive custody".

Use of Pellet shotguns

The Occupation Forces in Occupied Kashmir use pellet shotguns to quell the popular uprising and to contain protests against killings. The 12 bore shotguns classified as nonlethal can with one shot, spray over 400 pellets-much like ball bearings- into crowd. The state sanctioned nonlethal weapon has injured 8424 people since September 2016. Out of 8424 people, 73 have lost eyesight, 979 are at the verge of losing eyesight, and vision of 1869 has been damaged partially. The protocol for the use of these crowd control weapons is to aim at the legs to disperse demonstrators but most of the injured persons were hit above waist line and pellets were targeted to vital organs to kill or maim permanently.

Torture and other cruel, inhuman or degrading treatment

Indian Occupied Kashmir has more than 471 torture centers still functioning. Every fifth Kashmiri is the victim of torture and after every five Kilometer, there is a torture center. Ninety nine per cent of all who were or are being arrested are subjected to torture. Torture continues to remain an unreported phenomenon and most of the survivors chose not to report the maltreatment meted out to them for various reasons. However, the cases which get publicized narrate horrible stories.

Methods of torture like head dipping in water, rolling front side legs, electric shocks, inserting chili powder in private parts, cutting body parts or mutilating, keeping detainees naked during torture, sexually abusing , legs and arms stretching, inserting iron rods, hanging upside down, forced to drink excessive water, humiliation are worst and all of them have been applied on Kashmiri people.

Prisoner's plight

Systematic abuses and ill treatment of Kashmiri prisoners lodged in different jails has been intensified since September 2016. These prisoners continue to suffer from feeling of deprivation, and helplessness. Their condition is deplorable and they suffer extraordinary ordeal. They aren't able to meet their lawyers and receive proper medical care. The lives of these prisoners have been made hell by jail authorities. They are being served sub-standard and unhygienic food.

Most of the Kashmiri detainees lodged in different jails of State and outside are under trial and face tranny of legal system. The Authorities do not produce them regularly before courts on date of hearing for one reason or the other and most of the detainees due to lack of escort, miss their date of hearing in courts, which causes undue delay in disposing off their cases. In addition to this, the jail authorities derive pleasure in harassing their relatives who come from far off areas to meet them. They are made to wait for hours and humiliated in the name of frisking and are also subjected to harassment in blatant violation of the jail manual.

A. Freedom of opinion and expression

Repression of media and journalists

Many of the electronic and print media, such as Peace TV English, Peace TV Urdu, ARY QTV, Madni Channel, Noor TV, Hadi TV, Paigam, Hidayat, Saudi Al-Sunnah Al-Nabawiyah, Saudi-Al-Quran Al- Karim, Sehar, Karbala TV, Ahli-biat TV, Message TV, Hum TV, ARY Digital Asia, Hum Sitaray, ARY Zindagi, ARY Musik, TV One, ARY Masala, ARY Zauq, A TV, Geo News, ARY News Asia, AbbTakk News, Waseb TV, 92 News, Duniya News, Samna News, Geo Tez, Express News and ARY News, have been closed down in the past few years. Spurious charges have been filed against journalists by NIA (National Investigation Agency) and have been attacked while gathering information or as a reprisal for publishing articles or reports. In addition to judicial harassment, journalists often face threats and / or physical violence, notably by law enforcement agents.

Surveillance on social media

Social media are constantly monitored by the government's intelligent agencies and police by the "Social Media Laboratories". Using these social media laboratories, the authorities are able to collect information from all kinds of blogs, including Facebook, Twitter, Instagram, Google plus, YouTube and Wordpress and is using the same against Kashmiris.

B. Freedom of assembly and association

The right to freedom of peaceful assembly is one of the foundations of a democratic society and is guaranteed by Article 19 of the Constitution of India and Articles 21 of the ICCPR. However, peaceful meetings and assemblies organized by civil society organizations or resistance leaders have been willfully and systematically disrupted. There were episodes of Occupation Forces attacking gatherings and conducting mass arrests. In certain cases, local administrations issued orders stopping such events under section 144 of the Code of Criminal Procedure. Sometimes the movement of people is restrained by authorities by imposing curfew. The Chairman of the All Parties Hurriyat Sayed Ali Gilani has continuously been denied to address any public gathering and is in house detention for the last three hundred days, which symbolizes the shrinkage of space to all kinds of public dissent.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

The denial of right to self-determination has led to regime of human rights violation in Indian administered Kashmir

Kashmir has become a mess. Indian leaders and officials like to place all blame for the violence in Jammu and Kashmir on Pakistan. But they have ignored activists, academics, and numerous commissions established by various governments over the years that have repeatedly drawn attention to the lack of justice for victims of serious human rights violations by the Indian Government. Kashmiris demand for a plebiscite under UNSC Resolutions to decide their political future. The Indian Authorities consider protests by Kashmiris as anti-national. Even peaceful protests by students lead to charges of sedition punished with death penalty. Tens of thousands have been killed in Jammu & Kashmir in nearly three decades of fight for Right to Self Determination. Yet, impunity is the norm. India is desperate to change the narrative of Kashmir Issue. People in the occupied state are facing horrendous situation, un-proportionate use of force, detentions and unabated killings.

According to human rights and other independent organisations, Government Forces killed at least 145 civilians in 2016, 51 in 2017, and 39 more since January this year. Since summer 2008 agitation, Government Forces have killed over 600 civilians, mostly teenagers and youth. Indian Forces are giving body bags to Kashmiri families on a daily basis.

Case study. A man named Farooq Dar was abducted by the armed forces and tied to the front of a jeep. He was then paraded for hours, apparently, as an example to stone palters. According to Indian Army, this treatment was necessary to save the lives of soldiers by keeping the victim Farooq as a Human Shield.

The JK State Human Rights Commission decided that this was the "humiliation, physical, psychological torture, wrongful restraint and confinement". Furthermore it is true also in the way the man's life has since unfolded.

According to reports, he remains in a state of trauma and unable to find work. His community has disowned him, accusing him of being a collaborator. The matter has become a part of popular culture, and clothing material and even a scene in a recent movie have depicted it — from the Army's perspective only, unfortunately. After the violation of his rights on that day a year ago, the state has continued to debase him by denying him this compensation.

The J&K government has washed its hands of the issue by saying it was not involved in the violation of the man's rights and therefore was not liable to pay. The State has also pointed out, tellingly, the Human Rights Commission's observation that it had no jurisdiction to go into the conduct of the Army. Accused Army officer, Major Nitin Leetul Gogoi was commended rather than criminally investigated for unlawfully using a bystander as a "human shield".

Women

Women as a weaker section of society in Indian Administered Kashmir are facing the worst era of their life due to Indian atrocities. Massive use of lethal weapons, killing, loot and arson, molestation and sexual assault on women has become order of the day by the Indian Occupation Forces. There are nearly 3000 half-widows in Indian administered Jammu & Kashmir. Their husbands had been abducted by the Indian Occupation Forces and the intelligence agencies and women are waiting for their missing husbands for many years. In this grim situation, the people including women become vulnerable whereas the human rights organisations are not allowed to visit Occupied Kashmir to assess the ugly situation.

Children

Children in Jammu and Kashmir are living in the most militarized zone of the world, with the presence of 7,00,000 troopers, which exposes them to the risk of all grave violations against children as laid out in United Nations Convention on the Rights of the Child. Over the period of fifteen years; from 2003 to 2017, Indian Occupied Kashmir witnessed not less than 318 killings of children (in the age group of 1 to 17) in various incidents of violence in Jammu and Kashmir. The pattern of killings of children in the fifteen year period suggests that children were direct targets of State violence, as part of its stated offensive to curb uprising and militancy. At least 144, children were killed by Indian Armed Forces and State police in Jammu and Kashmir, which alone accounts for nearly half, i.e. 44.02 percent, of the total children killed. Most of the children, at least 110 of them, killed in state violence were shot dead in different incidents of violence, and not less than eight children died due to injuries inflicted from pellet shot guns fired by Government Forces. Twenty seven children died to due drowning; either caused due to the negligence of Armed Forces in Wular Lake tragedy or being chased by Government Forces during a protest, where victims find no way of escape

from the Armed Forces and are forced to jump into water bodies, resulting in their death. There are no legal and normative processes or practices protecting children's rights in Jammu and Kashmir, as hundreds of minors have been booked under the repressive Public Safety Act (PSA), with total disregard to the fact of their being children.

Freedom of Religion

On 12 May 2018 Police Authorities slapped Public Safety Act (PSA) on Jama'at-e-Islami and Tehreek-e-Hurriyat (TeH) leaders who were arrested on May 6; soon after they participated in the funeral prayers of a slain university professor, Dr Mohammad Rafi at Central Kashmir's Ganderbal District. They were arrested just because they participated in the last rituals of death of Dr Rafi who was son of their close friend.

On a routine, the Authorities impose restrictions on all roads leading to Jamia Masjid where Mirwaiz addresses Friday congregation every week and thus these remain closed.

Education

The unfavourable situation has badly hit the functioning of educational institutions since decades in Jammu & Kashmir, especially over the past two months. The institutions remained closed for 32 days since March 5, 2018.

The educational institutions were supposed to reopen after winter vacations on March 5, but the Government ordered closure of schools and colleges for almost a week, fearing student protests against the killings by Government Forces. Furthermore, Government on also ordered closure of all private tuition centres in Kashmir Valley for three months from April 2018.

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Human rights situations that require the Council's attention

Written statement* submitted by Lawyers' Rights Watch Canada, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

China: Human rights advocates suffer detention, ill-treatment and trials in violation of international law

In July 2015 the People's Republic of China (China) began a campaign (the 709 Crackdown) to repress legitimate human rights advocacy by human rights lawyers and other advocates (HRDs). Criminal laws and executive-controlled courts are used to silence HRDs through arbitrary detentions, illegitimate charges, denial of due process, and prohibited treatment. During the 709 Crackdown, at least 321 HRDs have been subjected to harassment, interrogation, arbitrary detention, illegitimate criminal charges, enforced disappearances, torture and ill-treatment, unfair trials before executive-controlled courts, denial of due process, wrongful convictions and other violations.[1] Seven defenders detained during the 709 Crackdown remain imprisoned.[2] Targeting and arbitrary detention of HRDs continues, and an increasing number of human rights lawyers face disbarment for their lawful advocacy.[3] HRDs effectively advocating for clients or causes unpopular with China, are especially vulnerable to severe rights violations including lengthy prison sentences.[4]

These violations represent a continuing pattern of systematic violations of China's international human rights law obligations arising from: membership in the United Nations (UN); membership on the UN Human Rights Council (Council); the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights (ICCPR), signed 5 October 1998; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), ratified 4 October 1988. LRWC calls on Council to fulfil its duty to protect fundamental human rights in China, and recommends that Council urge China to:

- Ensure the immediate release of and withdrawal of charges against all HRDs charged or detained;
- Abolish the use of Residential Surveillance at a Designated Place (RSDP);
- Take steps to remedy the systematic and widespread violations against HRDs identified in this report;
- Ensure effective investigations of allegations of torture or ill-treatment of HRDs.

Case examples

1. Wang Quanzhang,[5] Lawyer - Subversion of State Power (SOSP) - no bail hearing -trial pending.
   - Advocacy in cases involving freedom of religion or belief (e.g. Falun Gong).
   - 10 July2015: Detained.

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1 China Human Rights Lawyers Concern Group (CHRLCG), "'709 Crackdown'? Latest Data and Development of Cases as of 1800 17 May 2018," CRHLCG, 18 May 2018 http://www.chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91-latest-data-and-development-cases-1800-17-may-2018

2 Ibid.

3 Human Rights Watch, China: Release Human Rights Lawyers: Restore Licenses Revoked for Criticizing Government, HRW, 15 February 2018, https://www.hrw.org/news/2018/02/15/china-release-human-rights-lawyers; IAPL Monitoring Committee on Attacks on Lawyers, China: Lawyer Xie Yanyi assaulted, detained during impending disbarment proceedings, IAPL, 18 May 2018, https://defendlawyers.wordpress.com/2018/05/18/china-lawyer-xie-yanyi-assaulted-detained-during-impending-disbarment-proceedings/ Australian Centre on China in the World. "China: A Hearing With Chinese Characteristics: How the Beijing Lawyers' Association Helps Persecute Human Rights Lawyers," IAPL Monitoring Committee on Attacks on Lawyers, 21 May 2018, https://defendlawyers.wordpress.com/2018/05/21/china-a-hearing-with-chinese-characteristics-how-the-beijing-lawyers-association-helps-persecute-human-rights-lawyers/

4 Amnesty International, It's been one year since China began its assault on human rights lawyers and activists across the country on 9 July 2015, July 2017, https://www.amnesty.org/en/latest/campaigns/2016/07/one-year-since-chinas-crackdown-on-human-rights-lawyers/; Truth in China, 1,528 Mainland Chinese Retaliated Against for Filing Criminal Complaints Against Jiang Zemin, Collection of Evidence of Live Organ Harvesting from Falun Gong Practitioners by CCP, 27 September 2015, https://investigating.wordpress.com/2015/09/27/1528-mainland-chinese-retaliated-against-for-filing-criminal-complaints-against-jiang-zemin/.

5 Yang Jianli, "We don't even know if this heroic Chinese lawyer is alive or dead," *Washington Post*, 26 February 2018, https://www.washingtonpost.com/news/democracy-post/wp/2018/02/26/we-dont-even-know-if-this-heroic-chinese-lawyer-is-alive-or-dead/?utm_term=.0bdbc05c2856

- RSDP: 6 months.
- 8 January 2016: Formally arrested
- 14 February 2017: Indicted.

Enforced disappearance, struck by electroshock weapons, no communication or lawyer's visits.

2. Jiang Tianyong,[6] Lawyer - Inciting Subversion of State Power (ISOSP) - no bail hearing - 2-year imprisonment, serving sentence
   - Provided legal defense for some human rights lawyers arrested in the 709 crackdown.
   - 22 November 2016: Detained.
   - RSDP: 6 months.
   - 31 May 2017: Formally arrested.
   - Unknown: Indictment.
   - 22 August 2017: Tried.
   - 21 November 2017: Convicted.

   Enforced disappearance, purported confession coerced by torture, denied lawyer of his own choice.

3. Zhou Shifeng,[7] Lawyer - SOSP - no bail - 7-year imprisonment, serving sentence
   - Defended those charged in politically sensitive cases since 2001 including persons accused of criticizing the government.
   - 9 July 2015: Detained.
   - RSDP: 6 months.
   - 15 July 2016: Indicted.
   - 4 August 2016: Tried and convicted on same day.

   Enforced disappearance, denied lawyer of his own choice, serious medical conditions.

4. Hu Shigen,[8] HRD – SOSP - no bail - 7½-year imprisonment, serving sentence
   - Advocated democracy, rule of law and human rights including freedom of religion or belief.
   - 11 July 2015 detained.
   - RSDP 6 months.
   - 15 July 2016: Indicted.
   - 3 August 2016: Tried and convicted on same day.

   Enforced disappearance, critical medical conditions.

5. Wu Gan,[9] HRD - ISOSP - no bail - 8-year imprisonment, serving sentence
   - human rights defender supporting harassed lawyers.
   - 20 May 2015: Detained.
   - 3 July 2015: Formally arrested.
   - 23 December 2016: Indicted.

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6 UN Office of the High Commissioner for Human Rights, China: UN experts concerned about health of jailed rights lawyer Jiang Tianyong," Statement of Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights; Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders; Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Diego Garcia-Sayán, Special Rapporteur on the independence of judges and lawyers; Mr. José Antonio Guevara Bermúdez, Chair-Rapporteur of the Working Group on Arbitrary Detention, and Mr. Bernard Duhaime, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances. Statement endorsed by Dainius P?ras, Special Rapporteur on the right to health. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22890&LangID=E

7 Front Line Defenders, Lawyer Zhou Shifeng sentenced to 7 years in prison, Front Line Defenders, 4 August 2017, https://www.frontlinedefenders.org/en/case/lawyer-zhou-shifeng-sentenced-7-years-prison

8 Chinese Human Rights Defenders, Hu Shigen: Under Medical Watch, 22 January 2016 https://www.nchrd.org/2016/01/hu-shigen-%E8%83%A1%E7%9F%B3%E6%A0%B9/

9 Chinese Human Rights Defenders, Wu Gan, 11 March 2016, https://www.nchrd.org/2016/03/wu-gan/; Chinese Human Rights Defenders, Submission to UN on Wu Gan, Wang Fang, and Yin Xu'an, 17 April 2018, https://www.nchrd.org/2018/04/submission-to-un-on-wu-gan-wang-fang-and-yin-xuan-april-17-2018/

- 14 August 2017: Tried.
- 26 December 2017: Convicted.
- April 2018: Verdict upheld on appeal.

Prolonged fatigue interrogation and deprivation of sleep, restricted lawyer's visits.

6. Yin Xu'an,[10] HRD - Picking quarrels and stirring up troubles (PQST) – no bail - 3½-year imprisonment, serving sentence
   - Activism in support of detained human rights defenders
   - 28 July 2015: Detained.
   - 26 September 2015: Formally arrested.
   - 16 March 2016: Indicted.
   - 13 September 2016: Tried.
   - 27 May 2017: Convicted.

   Beaten, first visit allowed on 10 May 2016, requires medical attention.

7. Wang Fang,[11] HRD - PQST – no bail - 3-year imprisonment, serving sentence
   - Advocacy for detained human rights defenders
   - 25 July 2015: Detained.
   - 14 September 2015: Formally arrested.
   - 27 December 2016: Indicted.
   - 10 February 2017: Tried.
   - 18 July 2017: Convicted.

   Requires treatment for critical medical condition (cancer), lawyer's visits restricted.

8. Xie Yang,[12] Lawyer - ISOSP – no bail - no prison term
   - Represented pro democracy advocates, Christians and land grabbing opponents.
   - 11 July 2015: Detained.
   - 12 July 2015: RSDP for 6-months.
   - 8 January 2016: Formally arrested.
   - 16 December 2016: Indicted.
   - 8 May-2017: Tried and released on bail.
   - 26 December 2017: Convicted (no further punishment).

   Enforced disappearance, beaten until unconscious and requiring hospitalization, first visit allowed on 21 November 2016 (after 16 months in custody).

9. Li Heping,[13] Lawyer - SOSP – no bail - 3-year imprisonment with 4-year suspension
   - Defended dissidents, human rights lawyers, Christians and Falun Gong practitioners facing prosecution.
   - 10 July 2015: Detained.
   - RSDP for 6 months.
   - January 2016: Formally arrested.
   - 5 December 2016: Indicted.
   - 25 April 2017: Tried.
   - 28 April 2017: Convicted.

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10 Yin Xu'an Chinese Human Rights Defenders, Submission to UN on Wu Gan, Wang Fang, and Yin Xu'an, 17 April 2018, https://www.nchrd.org/2018/04/submission-to-un-on-wu-gan-wang-fang-and-yin-xuan-april-17-2018/

11 *Ibid.* Chinese Human Rights Defenders, Wang Fang, August 2016, https://www.nchrd.org/2016/08/wang-fang/

12 *Ibid.*, Front Line Defenders, Xie Yang, HRD, Lawyer, 27 December 2017, https://www.frontlinedefenders.org/en/profile/xie-yang

13 Chinese Human Rights Defenders, Communiqué Alleging Torture of Chinese lawyer Li Heping, July 2017, https://www.nchrd.org/2017/08/submission-to-un-on-li-heping-july-2017/

- May 2017: released in "emaciated, unrecognizable" condition.

Enforced disappearance, handcuffed and shackled continuously for a month, tortured, no lawyer visits.

China's practices and international law obligations

Politically-motivated criminal charges:
These and other HRDs are prosecuted solely for exercising protected rights to engage in peaceful human rights advocacy. They face overbroad charges that violate notice and certainty requirements, preclude both avoidance through foreknowledge and defense, and make convictions virtually certain.

Torture and other Cruel, Inhuman or Degrading Treatment:
At least 15 HRDs arrested during the 709 Crackdown have been tortured. More cases of torture are suspected. Censorship and the absence of independent investigations blocks verification. Since ratifying UNCAT, China has adopted laws prohibiting torture and ill-treatment of detainees. However, in 2016, the UN Committee against Torture (CAT) expressed concern "over consistent reports indicating that the practice of torture and ill-treatment is still deeply entrenched in the criminal justice system."[14]

Residential Surveillance at the Designated Place:
RSDP was created by a 2012 amendment to the Criminal Procedure Law (CPL) as a form of detention for investigating crimes of "endangering national security, terrorist activities or especially serious bribery cases." Article 73 of the CPL purports to allow arrest without warrant and detention in undisclosed places outside regulated detention facilities for an initial period of six months with a possible six month extension. Article 73 allows interrogation and treatment unrestricted by rules of regular detention facilities and public scrutiny. Communications with counsel or others is prohibited without investigators' permission and identification papers are confiscated to restrict movements. During the 709 Crackdown at least 27 HRDs have been subjected to RSDP confinement, jailed in small rooms in secret locations, and held incommunicado without access to lawyers or judicial oversight. On sentencing, no credit for RSDP detention is allowed. In 2016, the CAT expressed "grave concern" that "these provisions, together with the possibility of refusing access to a lawyer… may amount to incommunicado detention in secret places, putting detainees at a high risk of torture or ill-treatment."[15]

Pre-trial Detention:
The CPL allows up to 8 months detention prior to charges being laid and an additional 6 months in RSDP detention, a total of 14 months. Access to counsel is denied or restricted during investigation of crimes alleged to endanger state security (Article 37). During the 709 Crackdown many HRDs were detained for unreasonably long periods without access to judicial oversight or counsel prior to being charged.

Judicial Independence:
The Chief Justice of China, Zhou Qiang, opens each annual report to the National People's Congress by stating that the Supreme Court of China is under the leadership of the Party Central. On 14 January 2017, the Chief Justice urged China to fight against "Western Judicial Independence" at a national meeting of chief justices of higher courts. Without access to independent, competent and impartial tribunals, HRDs prosecuted for engaging in lawful human rights advocacy and the peaceful exercise of rights to expression, assembly and association, are automatically convicted and sentenced. Such detentions, prosecutions and trials violate China's international human rights law obligations arising from customary international law, membership in the UN, Council, and the UDHR, ICCPR and UNCAT.

Conclusion

14 UN Committee Against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, 3 February 2016, para 20, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/CHN/CO/5&Lang=En

15 Ibid., para 14

LRWC asks Council to make the aforementioned recommendations urging China to effectively protect the rights of HRDs and insist that China fulfil its Council membership obligation to "uphold the highest standards in the promotion and protection of human rights."16

16 UN General Assembly, Human Rights Council : resolution / adopted by the General Assembly, 3 April 2006, A/RES/60/251, available at: http://www.refworld.org/docid/453814814.html